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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 UNITED STATES OF AMERICA,)
9)
Plaintiff,) Case No. CR04-144-MJP
10 v.) **PROPOSED FINDINGS OF**
11 KURC LEBRAY,) **FACT AND DETERMINATION**
12 Defendant.) **AS TO ALLEGED**
VIOLATIONS OF SUPERVISED
RELEASE

13 INTRODUCTION

14 I conducted a hearing on alleged violations of supervised release in this case on September
15 11, 2009. The defendant appeared pursuant to summons issued in this case. The United States
16 was represented by Michael Dion, and defendant was represented by Kenneth Kanev. Also
17 present was U.S. Probation Officer Angela McGlynn. The proceedings were digitally recorded.

18 SENTENCE AND PRIOR ACTION

19 Defendant was sentenced on November 12, 2004 by the Honorable Marsha J. Pechman for
20 Conspiracy to Distribute Marijuana. He received 12 months of imprisonment and 3 years of
21 supervised release.

22 On June 20, 2007, a request for modifying the conditions of supervision with the consent of
23 the offender was submitted to the Court requesting that Mr. LeBray be required to complete 180

1 days of electronic home monitoring with a Sobrieter, and that he be required to participate in a
2 mental health program as directed, to specifically include the Moral Reconciliation Therapy (MRT)
3 program. These modifications were sought after Mr. LeBray admitted to consuming alcohol,
4 failing to be truthful with the probation officer, and being involved in an alleged assault. The
5 Court approved these modifications on June 26, 2007.

6 On August 15, 2007, a report on offender under supervision was submitted to the Court after
7 Mr. LeBray admitted to consuming alcohol on August 4, 2007. No action was recommended
8 since Mr. LeBray appeared to be addressing his substance abuse issues. The Court approved the
9 no action request on August 28, 2007.

10 On November 19, 2007, a violation report and request for summons was submitted to the
11 Court reporting that Mr. LeBray had violated his conditions of supervised release by consuming
12 marijuana and failing to participate in substance abuse treatment as instructed. On December 20,
13 2007, Mr. LeBray admitted to violation 1, and the second violation was dropped by the
14 government.

15 Disposition was delayed in order to give Mr. LeBray a chance to return to compliance.
16 However, a supplemental violation report and request for warrant was submitted to the Court on
17 August 27, 2008, reporting that Mr. LeBray had further violated his conditions by consuming
18 alcohol, committing the crime of driving under the influence, possessing marijuana, possessing
19 drug paraphernalia, and failing to report law enforcement contact. Eventually, Mr. LeBray
20 appeared before the Court on October 7, 2008, and was found to have committed all allegations
21 and he was sentenced to serve 6 months in custody followed by 30 months supervised release.

22 On April 27, 2009, a report on offender under supervision was submitted to the Court
23 reporting that Mr. LeBray had violated his conditions of supervision by failing to follow the

1 instructions of the probation officer by having contact with his ex-wife at her residence. No
2 action was recommended and was approved by the Court on May 5, 2009.

3 PRESENTLY ALLEGED VIOLATIONS AND
4 DEFENDANT'S ADMISSION OF THE VIOLATION

5 In a petition dated August 11, 2009, U.S. Probation Officer Jerrod Akins alleged that
6 defendant violated the following conditions of supervised release:

7 1. Consuming alcohol on or before July 24, 2009, in violation of the special condition
8 that he refrain from the use of alcohol and/or other intoxicants during the term of supervision.

9 Defendant admitted the above violation, waived any hearing as to whether it occurred, and
10 was informed the matter would be set for a disposition hearing September 23, 2009 at 10:30 a.m.
11 before District Judge Marsha J. Pechman.

12 RECOMMENDED FINDINGS AND CONCLUSIONS

13 Based upon the foregoing, I recommend the court find that defendant has violated the
14 conditions of his supervised release as alleged above, and conduct a disposition hearing.

15 DATED this 11th day of September, 2009.

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17 
18 BRIAN A. TSUCHIDA
United States Magistrate Judge